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Denton County
Juli Luke
County Clerk

Instrument Number: 24299

Real Property Recordings

NOTICE

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Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

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Record and Return To:

BADMINTON HEIGHTS HOA
C/O: PROPERTY MANAGEMENT LLC
5751 KROGER DR STE 203
KELLER TX 76244



STATE OF TEXAS
COUNTY OF DENTON

I hereby certify that this Instrument was FILED in the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke
County Clerk
Denton County, TX

**NOTICE OF FILING OF
DEDICATORY INSTRUMENTS FOR
BADMINTON HEIGHTS HOMEOWNERS ASSOCIATION**

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS**

STATE OF TEXAS)
)
COUNTY OF Denton)

KNOW ALL MEN BY THESE PRESENTS

THIS NOTICE OF DEDICATORY INSTRUMENTS FOR THE BADMINTON HEIGHTS HOMEOWNERS ASSOCIATION, INC. (“Notice”) is made the 22nd day of February, 2019, by **BADMINTON HEIGHTS HOMEOWNERS ASSOCIATION, INC.** (“Association”).

WITNESSETH:

WHEREAS, the Association is the property owners’ association created to manage or regulate the planned development covered by the **Declaration of Covenants, Conditions and Restrictions for Badminton Heights Homeowners Association**; and


WHEREAS, Section 202.006 of the Texas Property Code provides that a property owners’ association must file each dedicatory instrument governing the association that has not been previously recorded in the real property records of the county in which the planned development is located; and

WHEREAS, the Association desires to record the attached dedicatory instruments in the real property records of **Denton County**, Texas, pursuant to and in accordance with Section 202.006 of the Texas Property Code and for the purpose of providing public notice of the following dedicatory instruments affecting the owners of property within **Badminton Heights** (“Owner”).

NOW THEREFORE, the dedicatory instruments attached hereto on Exhibit “A” are originals and are hereby filed of record in the real property records of Denton County, Texas, in accordance with the requirements of Section 202.006 of the Texas Property Code.

IN WITNESS WHEREOF, the Association has caused this Notice to be executed by its duly authorized agent as of the date first written above.

**Badminton Heights Homeowners Association,
INC.**

By: 
Name: Dawn Kelly
Title: Property Manager

ACKNOWLEDGMENT

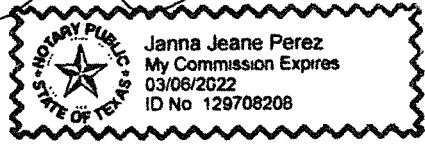
STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned authority, on this day personally appeared Dawn Kelly, authorized agent of **BADMINTON HEIGHTS HOMEOWNERS ASSOCIATION, INC.** known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that (s)he executed the same for the purposed and consideration therein expressed on behalf of said corporation.

SUBSCRIBED AND SWORN TO BEFORE ME on this 22nd day of February, 2019

Janna Jeane Perez
Notary Public of Texas



**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BADMINTON HEIGHTS**

Table of Contents

ARTICLE I DEFINITIONS.....	7
1.1 “Association”	7
1.2 “Board of Directors” or “Board”	7
1.3 “Builder”	7
1.4 “Bylaws”	7
1.5 “Common Property”	7
1.6 “Community”	7
1.7 “Community-Wide Standard”	7
1.8 “Eligible Mortgage Holder”	7
1.9 “First Mortgage”	7
1.10 “First Mortgagee”	7
1.11 “Lot”	7
1.12 “Member”	7
1.13 “Mortgage”	8
1.14 “Mortgagee”	8
1.15 “Mortgagor”	8
1.16 “Occupant”	8
1.17 “Owner”	8
1.18 “Person”	8
1.19 “Residence”	8
ARTICLE II ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS.....	9
2.1 Function of Association.....	9
2.2 Membership.....	9
2.3 Voting.....	9
ARTICLE III RIGHTS AND OBLIGATIONS OF THE ASSOCIATION	10
3.1 Common Property.....	10
3.2 Personal Property and Real Property for Common Use	10
3.3 Rules.....	10
3.4 Enforcement.	10

3.5	Occupants Bound.....	10
3.6	Enforcement of Ordinances.....	11
3.7	Implied Rights:.....	11
3.8	Indemnification.....	11
3.9	Dedication of Common Property.....	11
3.10	Security.....	11
ARTICLE IV MAINTENANCE.....		13
4.1	Association’s Responsibility.....	13
4.2	Owner’s Responsibility.....	13
4.3	Party Walls and Similar Structures.....	14
ARTICLE V INSURANCE AND CASUALTY LOSSES.....		15
5.1	Association Insurance.....	15
5.2	Individual Insurance.....	16
5.3	Damage and Destruction – Insured by Association.....	17
5.4	Damage and Destruction – Insured by Owners.....	18
ARTICLE VI ASSESSMENTS.....		19
6.1	Purpose of Assessments.....	19
6.2	Creation of the Lien and Personal Obligation for Assessments.....	19
6.3	Estoppel Certificates.....	19
6.4	Computation of Annual Assessments.....	20
6.5	Special Assessments.....	20
6.6	Specific Assessments.....	20
6.7	Date of Commencement of Assessments.....	21
6.8	Lien for Assessments.....	21
6.9	Effect of Nonpayment of Assessments; Remedies of the Association.....	22
6.11	Failure to Assess.....	22
6.12	Capitalization of Association.....	22
6.13	Exempt Property.....	22
ARTICLE VII ARCHITECTURAL STANDARDS.....		23
7.1	General.....	23
7.2	Architectural Review Committee.....	23
7.3	Guidelines and Procedures.....	23

(a) Design Guidelines.....	23
7.4 Submission of Plans and Specifications	24
7.5 No Waiver of Future Approvals	26
7.6 Variance.	26
7.7 Limitation of Liability.....	26
7.8 Enforcement	27
7.9 Notice of Violation	27
ARTICLE VIII USE RESTRICTIONS.....	28
8.1 General.....	28
8.2 Occupants Bound.....	28
8.3 Signs	28
8.4 Parking and Prohibited Vehicles	28
8.5 Animals and Pets.....	28
8.6 Quiet Enjoyment	29
8.7 Unsightly or Unkept Conditions.....	29
8.8 Antennas	29
8.9 Clotheslines, Garbage Cans, Tanks, etc.....	30
8.10 Subdivision and Time Sharing	30
8.12 Pools.....	30
8.13 Irrigation.....	30
8.14 Tents, Mobile Homes and Temporary Structures.....	30
8.15 Grading and Drainage	30
8.16 Removal of Plants and Trees.....	31
8.17 Sight Distance at Intersections.....	31
8.18 Utility Lines.....	31
8.19 Window Air Conditioning Units	31
8.20 Lighting.....	31
8.23 Wetlands, Lakes and Other Water Bodies	31
8.24 Playground and Recreational Equipment	31
8.25 Fences.	31
8.26 Business Use.....	31
8.27 On-Site Fuel Storage	32

8.28	Leasing of Lots.....	32
8.29	Laws and Ordinances	32
8.30	Single Family Occupancy.....	33
8.31	Mineral Operations.....	33
ARTICLE IX CONDEMNATION		34
ARTICLE X MORTGAGEE PROVISIONS		35
10.1	Notices of Action.....	35
10.2	No Priority	35
10.3	Notice to Association	35
10.4	Special FHLMC Provision.....	35
10.5	Other Provisions for Mortgagees.....	36
10.6	Amendments to Documents.....	36
10.8	Failure of Mortgagee to Respond	37
10.9	Applicability of Article X.....	37
ARTICLE XI EASEMENTS.....		38
11.1	Easements for Encroachment and Overhang	38
11.2	Easements for Use and Enjoyment.....	38
11.4	Easement for Entry	39
11.6	Easement for Entry Features	39
11.7	Easement for Nature Trail.....	39
ARTICLE XII ANNEXATION AND WITHDRAWL OF PROPERTY		40
12.2	Annexation With Approval of Membership.....	40
ARTICLE XIII DISPUTE RESOLUTION.....		41
13.1	Consensus for Association Action	41
13.2	Alternative Method for Resolving Disputes.....	41
13.3	Claims.....	41
13.4	Mandatory Procedures	42
ARTICLE XIV GENERAL PROVISIONS		44
14.1	Duration	44
14.2	Amendment	44
	(a) By Owners.....	44
14.3	Partition	44

14.4	Gender and Grammar	45
14.5	Severability.....	45
14.6	Captions	45
14.7	Perpetuities.....	45
14.8	Notice of Sale, Lease or Acquisition.....	45
14.9	Agreements.....	45
14.10	Use of the Words "Badminton Heights"	45
	ACKNOWLEDGEMENT	46
	EXHIBIT "A"	47
	Property Initially Subject to Declaration.....	47
	EXHIBIT "B"	48
	Property Subject to Annexation.....	48
	EXHIBIT "C"	49
	BYLAWS	50
	Article I Name, Principal Office and Definitions.....	50
	Article II Association Membership, Meetings, Quorum, Voting Proxies	51
	Article III Board of Directors: Number, Powers, Meetings	54
	Article IV Officers	61
	Article V Committees	62
	Article VI Miscellaneous.....	63
	EXHIBIT "D"	65
	ARTICLES OF INCORPORATION	65

ARTICLE I
DEFINITIONS

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

- 1.1 **"Association"** – Badminton Heights Homeowners Association, Inc., a Texas non-profit corporation, its successors and/or assigns.
- 1.2 **"Board of Directors" or "Board"** – The body responsible for administration of the Association, selected as provided in the Bylaws and generally serving the same role as the board of directors under Texas corporate law.
- 1.3 **"Builder"** – Any Person which purchases one or more Lots within the Community for the purpose of constructing improvements thereon for later sale to consumers or purchasers of parcels of land within the Community for further subdivision, development and/or resale in the ordinary course of such Person's business.
- 1.4 **"Bylaws"** – The Bylaws of Badminton Heights Homeowner Association, Inc. attached to this Declaration as Exhibit "C:" and incorporated by this reference, as they may be amended from time to time.
- 1.5 **"Common Property"** – Any and all real and personal property and easements and other interest therein, together with the facilities and improvements located thereon, if any, now or hereafter owned by the Association for the common use and enjoyment of the Owners.
- 1.6 **"Community"** – That certain real property described in Exhibit "A" to this Declaration, together with any additional property which is hereafter made subject to this Declaration in accordance with Article XII hereof.
- 1.7 **"Community-Wide Standard"** – The standard of conduct, maintenance, or other activity generally prevailing throughout the Community. Such standard may be more specifically determined by the Board and the Architectural Review Committee.
- 1.8 **"Eligible Mortgage Holder"** – Those holders of First Mortgages secured by Lots in the Community who have requested notice of certain items as set forth in this Declaration.
- 1.9 **"First Mortgage"** – Any Mortgage which is not subject to any lien or encumbrance except the taxes or other liens which are given priority by statute or agreement.
- 1.10 **"First Mortgagee"** – The beneficiary or holder of a First Mortgage.
- 1.11 **"Lot"** – Any plot of land within the Community, other than the Common Property, whether or not improvements are constructed thereon, which constitutes a single-family dwelling site as shown on a plat recorded in the land records of Denton County, Texas. Where the context indicates or requires, the term Lot includes any structure on the Lot.
- 1.12 **"Member"** – A person entitled to membership in the Association, as provided in Section 2.2.

- 1.13 "Mortgage" = Any mortgage, security deed, deed of trust and any and all other similar instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.
- 1.14 "Mortgagee" or "Mortgage Holder" – The holder of a Mortgage.
- 1.15 "Mortgagor" – Any Person who gives a Mortgage
- 1.16 "Occupant" – Any Person occupying all or any portion of a Lot for any period of time, regardless of whether such Person is a tenant of the Owner of such property.
- 1.17 "Owner" – The record owner(s) of the fee simple title to or an undivided fee interest in any Lot, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.
- 1.18 "Person" – Any natural person as well as a corporation, limited liability company, joint venture, partnership (general or limited), association, or other legal entity.
- 1.19 "Residence" – A residential dwelling structure constructed on a Lot and which is intended to be used and occupied as a residence for a single family.

ARTICLE II
ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS

2.1 Function of Association – The Association shall be the entity responsible for management, maintenance, operation and control of the Common Property. The Association shall be responsible for enforcement of this Declaration and such reasonable rules regulating use of the Lots and Common Property as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines (as defined in Section 7.3 hereof). The Association shall perform its functions in accordance with this Declaration, the Bylaws, the Articles, any rules and regulations (collectively, the Governing Documents) and Texas law.

2.2 Membership. Each Owner shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 2.3 hereof and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners hereunder. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

2.3 Voting.

(a) Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 2.2 of this Article; there shall be only one vote per Lot unless the Member owns multiple Lots. In the case where a Member owns more than one Lot, they will only be allotted one vote. In any situation where a Member is entitled personally to exercise the vote for his Lot and there is more than one Owner of a particular Lot, the vote for such Lot shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

ARTICLE III
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

3.1 **Common Property.** The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Property and all improvements thereon (including, without limitation, furnishings, equipment and common landscaped areas), and shall keep it in good, clean, attractive and sanitary order and repair, consistent with this Declaration and the Community-Wide Standard.

3.2 **Personal Property and Real Property for Common Use.** The Association may acquire, hold and dispose of tangible and intangible personal property and real property.

3.3 **Rules.** The Association, through its Board, may make and enforce reasonable rules governing the use of the Lots and Common Property. Such rules shall be binding upon all Owners, occupants, invitees and licensees until and unless repealed or modified in a regular or special meeting by two-thirds (2/3) of the Member votes in the Association, so long as such membership exists.

3.4 **Enforcement.** The Association, through its Board, may impose sanctions for violations of this Declaration, the Bylaws or rules in accordance with procedures adopted by the Board, including reasonable monetary fines and suspensions of the right to vote and to use recreational facilities, if any, within the Common Property. In addition, the Association may exercise self-help to cure violations (including, without limitation, the towing of vehicles and the removal of personal property), and may suspend any services it provides to the Lot of any Owner who is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall also be grounds for an action to recover sums due for damages or injunction relief, or both, maintainable by the Board on behalf of the Association, or, in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

3.5 **Occupants Bound.** Each Owner shall cause all Occupants of his Lot to comply with the Declaration, Bylaws and the rules and regulations of the Association, and shall be responsible for all violations and all losses or damages resulting from violations by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be personally sanctioned for any violation.

In the event that an Occupant violates the Declaration, Bylaws or a rule or regulation for which a fine is imposed, such fine may be assessed against the Occupant and/or Owner. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Declaration, Bylaws or rules and regulations by a lessee or any person living with the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Texas law. The Owner hereby delegates the assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration,

Bylaws and the rules and regulation of the Association, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner.

In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be assessed as a specific assessment against the Lot and the Owner.

3.6 Enforcement of Ordinances. The Association, by contract or other agreement, may enforce county ordinances and may permit the City of Bartonville to enforce ordinances within the Community for the benefit of the Association and its Members.

3.7 Implied Rights: Board Authority. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, they Bylaws or by law, all rights and powers of the Association may be exercised by the Board without a vote of the Membership.

3.8 Indemnification. The Association shall indemnify every officer, director and committee member of the Association against all expenses, including legal fees, reasonably incurred in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the current Board) to which he or she may be a party by reason of being or having been an officer, director or committee member.

The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director or committee member may be entitle. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

3.9 Dedication of Common Property. The Association may dedicate portions of the Common Property to Denton County, Texas or to any other local, state or federal governmental entity, subject to such approval as may be required by Section 11.2 of this Declaration.

3.10 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community safer than it otherwise might be. THE ASSOCIATION, SHALL NOT IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE COMMUNITY, NOR SHALL THE ASSOCIATION BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF

SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, ITS BOARD, COMMITTEES, ARE NOT INSURERS AND THAT EACH PERSON USING THE PROPERTY WITHIN THE COMMUNITY ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSON, TO LOTS AND TO THE CONTENTS OF DWELLINGS ON LOTS RESULTING FROM ACTS OF THIRD PARTIES.

ARTICLE IV
MAINTENANCE

4.1 **Association's Responsibility.** The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. The Association shall also maintain, repair and replace, if necessary; (a) all entry features and monuments for the Community including the expenses for water and electricity, if any, provided to all such entry features; and (b) all landscaping (including surface water maintenance systems) located on the Common Property or public right-of-way within the Community.

In addition, the Association shall have the right, but not the obligation, to maintain property not owned by the Association, whether within or outside the Community including, without limitation, publicly-owned property and property dedicated to public use, where the Board has determined that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

In the event that the Association determines that the need for maintenance, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, or the family, guests, lessees or invitees of an Owner, and is not covered or paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at such Owner's sole costs and expense, and all costs thereof shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the lot of such Owner pursuant to Section 6.6 hereof.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

4.2 **Owner's Responsibility.** Except as provided in Section 4.1 of this Article, all maintenance of the Lot and all structures, parking areas, landscaping and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard in this Declaration.

In addition to its other enforcement rights, in the event that the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner's sole cost and expense, subject to the following procedures. Except in an emergency situation, the Board shall give the Owner prior written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary.

The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement or, in the event that such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work which

shall be completed within a reasonable time. If the Owner fails to do so, the Association may provide any such maintenance, repair or replacement without further notice, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot pursuant to Section 6.6 of this Declaration.

4.3 Party Walls and Similar Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Lots which serves and/or separates any two adjoining Lots shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter used the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right to any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party structure, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request by the Board, the Board shall appoint an arbitrator for the refusing party. The arbitrators appointed shall appoint one additional arbitrator. The decision by a majority of all three arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

ARTICLE V
INSURANCE AND CASUALTY LOSSES

5.1 Association Insurance. The Association shall have the authority to and shall obtain or cause to be obtained insurance for all insurable improvements which the Association is obligated to maintain, whether or not located on the Common Property. The insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

The Association also shall obtain a public liability policy applicable to the Common Property covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members, employees, agents or contractors while acting on the behalf of the Association and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least \$1,000,000.00.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost. In the event of an insured loss, the deductible shall be treated as a common expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board determines, in its sole discretion, that the loss is the result of the negligence of willful conduct of one or more Owners of occupants, then the Board may specifically assess the full amount of such deductible against the Lot of such Owner or occupant, pursuant to Section 6.6 hereof.

All such insurance coverage obtained by the Board shall be written in the name of the Association and shall be governed by the following provisions:

- (a) All policies shall be written with a company authorized to do business in Texas with a Best's rating of A or better
- (b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (c) In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.
- (d) All property insurance policies shall have an inflation guard endorsement and an agreed amount endorsement, if reasonably available, and shall have reviewed

annually by one or more qualified person, at least one of whom must be in the real estate industry and familiar with construction in the Denton County, Texas area.

- (e) The Board shall make every reasonable effort to secure insurance policies that will provide for the following:
- (i) a waiver of subrogation by the insurer as to any claims against the Board, the manager, the Owners and Occupants and their respective tenants, servants, agents and guests;
 - (ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
 - (iii) that no policy may be canceled, subjected to non-renewal, invalidated or suspended on account of any curable defect or the conduct of any Owner or Occupant, or any director, officer or employee of the Association for its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be affected by the Association, its manager, any Owner or Mortgagee;
 - (iv) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
 - (v) that no policy may be canceled, subject to non-renewal or substantially modified without at least thirty (30) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees and other persons handling or responsible for the Association's funds, if reasonable available. The amount of fidelity coverage shall be determined in the directors' best business judgment and, if reasonably available, shall at least equal three months' assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of person serving without compensation and may not be canceled, subjected to non-renewal or substantially modified without at least thirty (30) days' prior written notice to the Association.

The Association shall also obtain construction code endorsements, steam and boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U. S. Department of Veterans Affairs or the U. S. Department of Housing and Urban Development. It is the intent of this Section that the Association maintain insurance in effect meeting the requirements of the above-named entities as applicable, and as said requirements may change from time to time.

5.2 Individual Insurance. By virtue of taking title to a Lot, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of any Lot, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry property insurance on his Lot and all structures constructed thereon and a liability policy covering

damage or injury occurring on the Lot in an amount not less than \$100,000 per occurrence. Each Owner shall furnish a copy of such insurance policy or policies to the Association within ten (10) days of the Association's request for same. The property insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonable available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall remain in effect at all times. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within thirty (30) days after receipt by the Owner of a written request from the Association. If the Association does acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Lot as a specific assessment pursuant to Section 6.6 hereof.

5.3 Damage and Destruction – Insured by Association.

(a) General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damage or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless within sixty (60) days after the casualty, Members representing at least sixty-seven percent (67%) of the total Members votes in the Association otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within thirty (30) days following commencement of said sixty (60) day period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. NO Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to cover the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a special assessment against each Lot any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

5.4 Damage and Destruction – Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction.

ARTICLE VI
ASSESSMENTS

6.1 Purpose of Assessments. The assessments provided for herein shall be used for the general purposes of promoting the recreation, common benefit and enjoyment of the Owners and Occupants of Lots, including the maintenance and insurance of real and personal property, all as may be more specifically authorized from time to time by the Board.

6.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association; (a) annual assessments or charges; (b) special assessments; and (c) specific assessments, as applicable, including, but not limited to, reasonable fines imposed in accordance with the terms of this Declaration and the Bylaws. Such assessments shall be established and collected as hereinafter provided.

All such assessments, together with late charges, interest (not to exceed the lesser of the maximum rate permitted by law or ten percent (10%) per annum on the principal amount due), and costs of collection (including, without limitation, reasonable attorney's fees), shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made until paid, as more particularly provided in Section 6.8 hereof. Each such assessment, together with late charges, interest and costs of collection, shall also be the personal obligation of the person who was the Owner of such Lot at the time of the assessment fell due. Upon transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges against the lot due at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any First Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

No Owner may exempt himself from liability for assessments, by non-use of Common Property, abandonment of his Lot, or for any other reason. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials or a combination thereof for payment of all or a portion of assessments due therefrom.

6.3 Estoppel Certificates. The Association shall, within ten (10) days after receiving a written request therefore and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of insurance.

6.4 Computation of Annual Assessments. It shall be the duty of the Board annually to prepare a budget covering the estimated costs of operating the Association during the coming fiscal year which may include a contribution to a capital reserve for repair and replacement of capital items, if any, in accordance with a capital budget separately prepared. The annual assessment to be levied against each Lot shall be set at a level which is reasonably expected to produce total income to the Association at least equal to the total budgeted expenses, including reserves, if any. The Board shall cause a copy of the budget and notice of the annual assessment to be levied against each Lot for the following year to be delivered to each Owner at least thirty (30) days prior to the end of the current fiscal year.

The budget and the assessment shall automatically be effective upon adoption by the Board. If the proposed assessment exceeds one hundred twenty-five percent (125%) of the prior year's annual assessment, however, Members holding a majority of the votes may disapprove of the assessment at a meeting of the Members; provided, there shall be no obligation to call a meeting for the purpose of considering the budget except upon petition of the Members as provided for special meetings in Article II of the Bylaws, which petition must be presented to the board within ten (10) days after delivery of the budget and notice of the assessment. In the event the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined, as provided herein, the proposed assessment, to the extent that such assessment does not exceed one hundred twenty-five percent (125%) of the prior year's annual assessment, shall be in effect for the current year.

6.5 Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments from time to time to cover unanticipated or unbudgeted expenses. Except as otherwise provided in Section 5.3(b) hereof, any special assessment shall require approval at a meeting of Members holding a majority of the total . Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

6.6 Specific Assessments. The Board shall have the power to levy specific assessments against a particular Lot or Lots constituting less than all Lots within the Community as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items or services to any Lot or the Occupants thereof upon request of the Owner or Occupants, which benefits, items or services the Board may (but shall not be obligated to) offer from time to time; such as assessments may be levied in advance of the provision of the requested benefit item or service as a deposit against charges to be incurred;

(b) to cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, the Bylaws or rules of the Association, or costs incurred as a consequence of the conduct of the Owner or Occupants of the Lot, their licensees, invitees or guests; and

(c) for fines levied pursuant to this Declaration and the Bylaws.

Failure of the Board to exercise its authority under this Section shall not be ground for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section.

6.7 Date of Commencement of Assessments. The assessments provided for herein shall commence as to each Lot on the first day of the month following (i) the month in which the Lot is made subject to this Declaration, or (ii) the month the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual assessment due on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time the obligations or assessments commence.

6.8 Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest and costs of collection as set forth in Section 6.2 hereof, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes, or (b) liens for all sums unpaid on a First Mortgage duly recorded in the land records of Denton County, Texas (and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument).

All other Persons acquiring liens or encumbrances on any Lot after the recording of the original Declaration shall be deemed to consent that such liens or encumbrances are inferior to the lien provided herein to secure the payment of future assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Lot the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability or priority of the lien. The lien may be foreclosed through judicial or non judicial foreclosure proceedings in accordance with Tex. Prop. Code Ann. Section 51.002 et seq. (Vernon 1984), as it may be amended (the "Foreclosure Statute"), in like manner for any deed of trust on real property. In connection with the lien created herein, each Owner of a Lot hereby grants to the Association, whether or not it is so expressed in the deed or other conveyance to such Owner, a power of sale to be exercised in accordance with the Foreclosure Statute.

The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same. The Association may sue for unpaid assessments and other charges without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the First Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title pursuant to

foreclosure of the First Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be common expenses collectible from Owner of all Lots subject to assessment under this Declaration, including such acquirer, its successors and assigns.

6.9 Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. Any assessment or installment thereof delinquent for a period of more than fifteen (15) days shall incur a late charge in such amount as the Board may from time to time determine. In the event that the assessment remains unpaid after sixty (60) days, the Association may commence non-judicial foreclosure proceedings and/or institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, or to enforce the lien by suit, judgment and judicial or non-judicial foreclosure in the same manner as other liens for the improvement of real property.

All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

6.11 Failure to Assess. Failure of the Board to fix the annual assessment amount or rate or to deliver or mail each Owner a notice of annual assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay such assessments. In such event, each Owner shall continue to pay annual assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may, without limitation, retroactively assess any shortfalls in collections or reimburse any excess in collections.

6.12 Capitalization of Association. Upon the initial acquisition of record title to a Lot by an Owner a contribution shall be made by or on behalf of the purchaser at closing to the working capital of the Association in the amount of \$300.00. Capital contributions, if any, shall be in addition to, not in lieu of, the annual assessments and shall not be considered an advance payment of such assessment. Capital contributions, if any, shall be deposited into a separate account and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

6.13 Exempt Property. The following property shall be exempt from payment of assessments:

- (a) any Lot owned in fee simple by the Association as Common Property; and
- (b) any property dedicated to and accepted by any governmental authority or public utility.

ARTICLE VII
ARCHITECTURAL STANDARDS

7.1 General. No structure shall be placed, erected or installed upon any Lot, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements and planting or removal of landscaping materials) shall take place except in compliance with this Article and the Design Guidelines and upon written approval of the Architectural Review Committee as required herein.

Any owner may remodel, paint or redecorate the interior of structures on his Lot without approval. No approval shall be required to rebuild in accordance with originally approved plans and specifications.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect, unless otherwise acceptable to the Architectural Review Committee, and shall conform to all applicable laws, codes and ordinances.

7.2 Architectural Review Committee. Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article shall be handled by an Architectural Review Committee ("ARC" or "Committee") consisting of not less than three (3) nor more than five (5) persons.

The Board shall appoint the members of the ARC. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review.

7.3 Guidelines and Procedures. The ARC may prepare, adopt and amend design and development guidelines and application and review procedures (the "Design Guidelines") which shall apply to all construction activities within the Community. The Board shall have the authority to amend the Design Guidelines. Any amendments to the Design Guidelines shall be prospective only and shall not apply or require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the Board is expressly authorized to amend the Design Guidelines more or less restrictive. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another depending upon location and unique characteristics.

(a) Design Guidelines

Exterior Buildings. An exterior building is any structure detached (not sharing a common roof line) from the main residence such as : workshop, detached garage, pool shed, play house and others not specifically mentioned. Any detached structure needs to be behind the front line or front elevation of the main house. The exterior of the detached structure needs to compliment in design, color and quality of materials, of the main house. All exterior structures need to be approved by the ARC prior to construction.

Propane Tanks. Propane tanks are required to be buried underground. Above ground tanks are not acceptable.

Garage Door Entry. Acceptable garage door (facing) design would place the garage doors behind the front line or front elevation of the main house. Garage doors should be side entry and not facing the street. In the case of a split garage, two (2) or more doors will be side entry and one (1) single wide door (not to exceed 108" wide) can be recessed from the front line or front elevation of the main house and face the street.

Border fencing. The acceptable materials for border fencing are natural wood, wrought iron or pipe fencing. Fiberglass or PVC fencing materials will require preapproval by the ARC. Chain link fencing material is not acceptable. The color of the fence should match the main house or a stained natural wood. Border fence height shall not exceed five (5) feet in height. Privacy fencing over five (5) feet is not acceptable without special approval by the ARC. Sport courts will be considered separately.

Storage of Non Vehicles. Towable trailers should be stored behind the backline of the main house in an attempt to be out of clear view. It is preferred they are stored within the garage or an approved exterior structure. Golf carts, boats and ATVs should be stored in an enclosed storage building. No commercial trailers or equipment is to be stored outside.

7.4 Submission of Plans and Specifications.

(a) No Work shall commence on any Lot until an application for approval has been submitted to and approved by the Committee in writing. Such application shall be in the form required by the Committee and shall include plans and specifications ("Plans") showing the site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screen therefore, and other features of proposed construction, as applicable. The Committee may require the submission of such additional information as it deems necessary to consider any application. The Plans shall be in such form and shall contain such information as may reasonable be required pursuant to the Design Guidelines.

In reviewing each submission, the Committee may consider (but shall not be limited to consideration of) visual and environmental impact, ecological compatibility, natural platforms and

finished grade elevations, the quality of workmanship and design, harmony of external design with surrounding structures and environment, location in relation to surrounding structures and plant life, architectural merit and compliance with the general intent of the Design Guidelines and the general scheme of development for the Properties. Decisions of the Committee may be based on purely aesthetic considerations.

A schedule and procedures outlining the specified Plans to be submitted at specific times shall be established by the Committee and may be set forth in the Design Guidelines. The Committee shall, within fourteen (14) days after receipt of each required submission of Plans, advise the party submitting the same, in writing, at an address specified by such party at the time of submission of (i) the approval of Plans or (ii) the disapproval of Plans, specifying the segments or features of the Plans which are objectionable and suggestions, if any, for curing of such objections. In the event the Committee fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, the applicant may give the Committee written notice of such failure to respond, stating that, unless the Committee responds within ten (10) days of receipt of such notice, approval shall be deemed granted. However, no Plans, whether expressly approved or deemed approved pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing pursuant to Section 7.6.

Notice shall be deemed to have been given at the time of the envelope containing such notice, properly addressed and postage prepaid, is deposited with the United States Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall also be sufficient and shall be deemed to have been given at the time of delivery.

(b) All Work shall be completed within one (1) year of commencement of construction or such shorter period as the Committee may specify in the notice of approval, unless completion within such time is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the Committee.

(c) Once the ARC has approved a set of final plans and specifications submitted by a Builder for a house to be constructed on a Lot, that Builder may use such plans and specifications for other homes it will construct in the Community.

(d) If construction does not commence on a project for which Plans have been approved within thirty (30) days of the estimated commencement date set forth in such approved Plans, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans to the ARC for reconsideration.

(e) If construction has commenced but is not completed on a project for which Plans have been approved within thirty (30) days of the estimated completion date set forth in such approved Plans, the Board may, in addition to any other remedy provided in this Declaration, cause the completion of the construction at the Owner's sole cost and expense, subject to the following procedures. The Board shall give the Owner prior written notice of the Association's intent to complete construction at the Owner's sole cost and expense. The notice shall set forth with reasonable

particularity the construction deemed necessary. The Owner shall have ten (10) days after delivery of such notice within which to complete such construction or, in the event that construction cannot be completed within a ten (10) day period, to diligently pursue completion of construction within a reasonable time. If the Owner fails to do so, the Association may, among other remedies, complete construction without further notice, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot pursuant to Section 6.6 of this Declaration.

7.5 No Waiver of Future Approvals. Each Owner acknowledges that the members of the ARC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

7.6 Variance. The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require. No variance shall (a) be effective unless in writing, (b) be contrary to this Declaration, or (c) stop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the cost of compliance, or the terms of any financing shall not be considered a hardship warranting a variance.

7.7 Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and not for engineering, structural design or quality of materials. The ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, for reviewing drainage plans or ensuring the effectiveness thereof, nor for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board, the ARC, nor any member of the foregoing shall be held liable for any injury, damages or loss arising out of the manner of quality of approved construction on or modifications to any Lot, nor for any defect in any structure constructed from approved plans.

Neither the Association, the ARC, The Board nor the officers, directors, members, employees and agents of any of them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions, by reason of misstate in judgment, negligence or nonfeasance or arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits Plans and every Owner agrees that he will not bring any action or suit against the Association, the ARC, the Board or the officers, directors, members, employees and agents of any of them, to recover any such damages and hereby releases, promises, quitclaims and covenants not to sue for all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general

release does not extend to claims, demands and causes of action not known at the time the release is given.

7.8 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right, in addition to any other remedy provided herein for the enforcement of this Declaration, to enter the property, remove the violation and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Specific Assessment in accordance with Section 6.6 of this Declaration.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Board from further construction activity within the Community. In such event, neither the Association, its officers, nor its directors shall be held liable to any Person for exercising the rights granted by this Section.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARC.

7.9 Notice of Violation. To evidence any violation of this Declaration, the Bylaws, rules of Design Guidelines by any Owner or Occupant, the Board may file, but is not required to file, in the deed records of Denton County, Texas, a notice of violation setting forth (i) the violation, (ii) the name of the Owner and Lot, and (iii) a sufficient legal description of the Lot. Such notice shall be signed and acknowledged by an officer or duly authorized agent or attorney of the Association. The cost of preparing and recording such notice shall be assessed as a Specific Assessment against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing pursuant to Section 6.6 hereof.

ARTICLE VIII
USE RESTRICTIONS

8.1 General. The Properties shall be used only for residential, recreational and related purposes consistent with the Governing Documents.

8.2 Occupants Bound. All provisions of the Governing Documents which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Lot. Every Owner shall cause all occupants of his Lot to comply with the Governing Documents. Every Owner shall be responsible for all violations and losses to the Common Property caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any such violation or loss.

8.3 Signs. No sign of any kind shall be displayed to the public view on any Lot except (i) one (1) sign of not more than five (5) square feet advertising the property for rent or sale; (ii) political signs advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than a reasonable period of time (in no event to exceed sixty (60) days in advance of the election to which they pertain and are removed within fifteen (15) days after the election. The Association shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal.

8.4 Parking and Prohibited Vehicles

(a) Parking. Vehicles shall not be parked overnight on public or private streets or thoroughfares. Visitors or guests may part on streets for no more than twenty-four (24) hours. The Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules.

(b) Prohibited Vehicles. Stored vehicles, inoperable vehicles, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and watercraft trailers should be stored behind the backline of the main house in an attempt to be out of clear view. It is preferred they are stored within the garage or an approved exterior structure. Golf carts, boats and ATVs should be stored in an enclosed storage building. No commercial trailers or equipment is to be stored outside. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days. For purposes of this Section, a vehicle shall be considered "inoperable" if it is obviously not capable of being operated as a vehicle or if it does not have a current registration or operating licenses. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with Texas law.

8.5 Animals and Pets. Each and every dog must be leashed and accompanied by its owner when traveling beyond the perimeter of a secure enclosure (as hereinafter defined), and such pet owner shall promptly clean and remove the discharge and waste of his pet or livestock. No dog shall be left

unattended outside a secure enclosure so as to be accessible to Persons other than the pet owner. Notwithstanding the above, those pets or livestock which are permitted to roam free or, in the sole discretion of the Board, endanger the health, make objectionable noise or constitute a nuisance or inconvenience to the occupants of other Lots shall be removed upon request of the Board. If the owner fails to honor such request, the Board may remove the pet or livestock. For purposes of this Section, a "secure enclosure" means a fenced area or structure that is (i) locked; (ii) capable of preventing the entry of the general public, including children; (iii) capable of preventing the escape or release of a pet or livestock; and (iv) in conformance with the requirements for enclosures established by the local animal control authority.

8.6 Quiet Enjoyment. Nothing shall be done or maintained on any part of a Lot which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace, quiet, safety, comfort or serenity of the occupants of other Lots. Therefore shall not be maintained any plans or animals or devise or things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Properties.

8.7 Unsightly or Unkept Conditions. All portions of a Lot outside of enclosed structures shall be kept in a clean and tidy condition at all times. Nothing shall be done, maintained, stored or kept outside of enclosed structures on a Lot which, in the determination of the Board, causes an unclean, unhealthy or untidy condition to exist or is obnoxious to the senses. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkept conditions, shall not be pursued or undertaken on any part of the Properties. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

No person shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances in any drainage ditch, stream, pond or lake, street or gutter, or anywhere on the Common Areas. Such materials shall not be disposed of on any portion of the Properties without the prior permission of the Owner thereof.

8.8 Antennas. No exterior antennas, aerials, satellite dishes or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed or maintained upon any portion of the Properties, except that (i) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; (ii) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; or (iii) antennas or satellite dishes designed to receive television broadcast signals [(i), (ii) and (iii) are collectively referred to as "Permitted Devices"] shall be permitted, provided that any such quality signal can be received and it not visible from

neighboring property or is screened from the view of adjacent Lots in a manner consistent with the Community-Wide Standard and the Design Guidelines.

8.9 Clotheslines, Garbage Cans, Tanks, etc. Permanent clotheslines and clothesline supports are not permitted. All garbage cans, above ground storage tanks, mechanical equipment and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets and property located adjacent to the Lot. All rubbish trash and garbage shall be stored in appropriate containers approved pursuant to Article XI. All rubbish, trash and garbage shall regularly be removed from the Properties and shall not be allowed to accumulate. Garbage and trash cans may not be placed at the curbside or other designated pickup location not more than twenty-four (24) hours prior to the pickup time and must be removed within twelve (12) hours after pickup.

8.10 Subdivision and Time Sharing. No Lot shall be subdivided into two or more Lots, nor shall two or more Lots be combined into a single Lot, nor shall a Lot have its boundary lines changed after a subdivision plat including such Lot has been approved and recorded except with the prior written approval of the Board. Notwithstanding the combination of two or more Lots into a single Lot, the Owner of the combined Lot(s) shall be obligated to pay the Base Assessment, or any Special Assessment or Neighborhood Assessment, based upon the number of Lots originally comprising the Lot as shown on the original approved and recorded plat of the portion of the Properties including such Lots.

No Lot shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Lot rotates among members of the program on a fixed or floating time schedule over a period of five years.

8.12 Pools. No above-ground swimming pools shall be erected, constructed or installed on any Lot. Jacuzzis, whirlpools or spas approved pursuant to Article XI shall not be considered an above-ground pool for the purposes of this Section.

8.13 Irrigation. The Association shall have the right to draw water from creeks, streams, rivers, ponds, lakes, wetlands or other surface water on Common Property for the purpose of irrigating the Area of Common Responsibility. All private wells shall be subject to approval in accordance with Article XI of this Declaration.

8.14 Tents, Mobile Homes and Temporary Structures. No tent, shack, mobile home, storage shed or structure of a temporary nature shall be placed upon a Lot or any part of the Properties without prior approval pursuant to Article IX hereof, except that party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board.

8.15 Grading and Drainage. No Person shall alter the grading of any Lot without prior approval pursuant to Article XI of this Declaration. No obstructions or debris shall be placed in these areas. NO Person may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains. The Association reserves a perpetual easement across the Properties for the purpose of altering drainage and water flow. However, the exercise of such an

easement shall not materially diminish the value of or unreasonable interfere with the use of any adjacent property without the Owner's consent.

8.16 Removal of Plants and Trees. No trees or shrubs, except for those which are diseased or dead or create a safety hazard, shall be removed except in strict compliance with the Design Guidelines and upon prior approval in accordance with Article XI of this Declaration. In the event of an intentional or unintentional violation of this section, the violator may be required by the Committee to replace the removed tree with one or more comparable trees of such size and number and in such locations as the Committee may determine necessary, in its sole discretion, to mitigate the damage.

8.17 Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. NO fence, wall hedge or shrub planting shall be placed or permitted to remain where it would create a traffic or sight line problem.

8.18 Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for temporary lines as required during construction.

8.19 Window Air Conditioning Units. No window air conditioning units may be installed in any dwelling or structure on a Lot.

8.20 Lighting. Except for traditional holiday decorative lights, which may be displayed for one (1) month prior to and one (1) month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved in accordance with Article XI of this Declaration.

8.21 Artificial Lakes, Exterior Sculpture and Similar Items. No artificial lakes, vegetation, exterior sculptures, fountains, birdhouses, birdbaths or other decorative embellishments, or similar items shall be permitted unless approved by the ARC.

8.23 Wetlands, Lakes and Other Water Bodies. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds or streams within the Properties.

8.24 Playground and Recreational Equipment. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user. The Association shall not be held liable to any Person for any claim, damage or injury occurring thereon or related to use thereof.

8.25 Fences. No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Lot except as approved in accordance with Section 7.3 of this Declaration.

8.26 Business Use. No business, trade or similar activity may be conducted in or from any Lot, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot, (ii) the business activity conforms to all zoning requirements for the

Properties, (iii) the business activity does not noticeably increase the level of vehicular or pedestrian traffic or the number of vehicles parked in the Properties, and (v) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance or hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

Garage sales, moving sales, rummage sales or similar activities on any lot may be permitted no more often than twice per year, and subject to such restrictions as may be imposed by the Board from time to time.

The terms "business" and "trade" as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (i) such activity is engaged in full or part time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Notwithstanding the above, the leasing of a Lot shall not be considered a business or trade within the meaning of this Section.

8.27 On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Properties. However, each Owner may install one (1) propane tank on his Lot in a location and of a capacity approved by the Committee and up to five (5) gallons of additional fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

8.28 Leasing of Lots. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity or emolument. All Leases shall be in writing. Lots may be leased only in their entirety. No fraction or portion may be leased. There shall be no subleasing of Lots or assignment of leases unless prior written approval is obtained from the Board. NO transient tenants may be accommodated in a Lot. All leases shall be in writing and shall be for an initial term of no less than six (6) months, except with the prior written consent of the Board. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the Governing Documents. The Board may adopt reasonable rules regulating leasing and subleasing.

8.29 Laws and Ordinances. Every Owner and occupant of any Lot, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties. Any violation may be considered a violation of this Declaration. However, the Association shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

8.30 Single Family Occupancy. No Lot shall be occupied by more than a single family. For purposes of this restriction, a single family shall be defined as any number of persons related by blood, adoption or marriage living with not more than one person who is not so related as a single household unit, or no more than two persons who are not so related living together as a single household unit, and the household employees of either such household unit; provided, however, that nothing herein shall be interpreted to restrict the ability of one or more adults meeting the definition of a single-family from residing with any number of persons under the age of eighteen (18) over whom such persons have legal authority.

8.31 Mineral Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on any Lot. No derrick or other structure designed for use in boring for water, oil, natural gas or other minerals shall be erected and maintained or permitted on any Lot.

ARTICLE IX
CONDEMNATION

In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, Members representing at least seventy-five percent (75%) of the total votes shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefore. The provisions of Section 5.3 applicable to damage to improvements on the Common Property shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

ARTICLE X
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of First Mortgage on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

10.1 Notices of Action. An institutional holder, insurer or guarantor of a First Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the Lot number, therefore becoming an "Eligible Holder") will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a First Mortgage held, insured or guaranteed by such Eligible Holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a First Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; or

(c) any lapse, cancellation or material modification of any insurance policy maintained by the Association.

10.2 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Property.

10.3 Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

10.4 Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven percent (67%) of the First Mortgagees or Members representing at least sixty-seven (67%) of the votes consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the real property comprising the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner of a Lot;

(c) By act or omission change, waive or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Lots and the Common Property (the issuance and amendment of architectural standards, procedures, rules and regulations or use restrictions shall not constitute a change, waiver or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Property losses for other than the repair, replacement or reconstruction of such property.

First Mortgagees may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and First Mortgages making such payments shall be entitled to immediate reimbursement from the Association.

10.5 Other Provisions for Mortgagees. To the extent possible under Texas law:

(a) Any restoration or repair of the Community after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of First Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of First Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

10.6 Amendments to Documents. The following provisions do not apply to amendments to the constituent documents or termination of the Association made as a result of destruction, damage or condemnation pursuant to Sections 10.5 (a) and (b) of this Article or to the addition of land in accordance with Article XII.

(a) The consent of Members representing at least sixty-seven percent (67%) and the approval of the Eligible Holders of First Mortgages on Lots to which at least sixty-seven percent (67%) of the votes of Lots subject to a Mortgage appertain shall be required to terminate the Association.

(b) The consent of Members representing at least sixty-seven percent (67%) and the approval of Eligible Holders of First Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to a Mortgage appertain shall be required to materially amend any provisions of

the Declaration, Bylaws or Articles of Incorporation or to add any material provisions thereto which establish, provide for, modify, govern or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens or subordination of such liens;
- (iii) reserves for maintenance, repair and replacement of the Common Property;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Property;
- (vi) expansion or contraction of the Community or the addition, annexation or withdrawal of Community to or from the Association;
- (vii) boundaries of any Lot;
- (viii) leasing of Lots;
- (ix) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer or otherwise convey his Lot;
- (x) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xi) any provisions included in the Declaration, Bylaws or Articles of Incorporation which are for the express benefit of holders, guarantors or insurers of First Mortgages on Lots.

10.8 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request; provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

10.9 Applicability of Article X. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws or Texas law for any of the acts set out in this Article.

**ARTICLE XI
EASEMENTS**

11.1 Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than one (1) foot, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant or the Association.

11.2 Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

(i) the right of the Association to charge reasonable fees for the use of your portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, and the family, tenants, guests and invitees of an Owner;

(ii) the right of the Association to suspend the voting rights of a Lot Owner for any period during which any assessment against such Owner's Lot which is herein provided for remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws or rules and regulations;

(iii) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interest, options, easements and privileges herein reserved or established for the benefit any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by any Lot Owner encumbering any Lot or other property located within the Community (any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the Exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of any Lot or Lot Owner, or the holder of any Mortgage shall be effective unless an instrument agreeing to such Mortgage has been approved by two-thirds (2/3) of the Members;

(vi) the right of the Association to dedicate or grant licenses, permits or easements over, under and through the Common Property to governmental entities for public purposes; and

(v) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association. No such dedication, transfer or conveyance shall be effective unless an instrument agreeing to such dedication or transfer has been approved two-thirds (2/3) of the Members.

(b) Any Owner may delegate such Owner's right of use and enjoyment in and to the Common Property and facilities located thereon to the members of such Owner's family and to such Owner's tenants and guests and shall be deemed to have made a delegation of all such rights to the Occupants of such Owner's Lot, if leased.

11.4 Easement for Entry. In addition to the right of the Board to exercise self-help as provided in this Declaration, the Association shall have the right, but shall not be obligated, to enter upon any property within the Community for emergency, security and safety reasons, which right may be exercised by the manager and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Association to enter to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

11.6 Easement for Entry Features. There is hereby reserved to the Association an easement for ingress, egress, installation, construction landscaping and maintenance of entry features and similar streetscapes for the Community, over and upon each Lot (excluding Residences). The easement and right herein reserved shall include, without limitation, the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and the right to grade the land under and around such entry features.

11.7 Easement for Nature Trail. There is hereby reserved to the Association an easement for ingress, egress, installation, construction landscaping and maintenance of a nature trail over and upon certain Lots (excluding Residences) as such easement is more particularly shown on the Plat. Owners shall not install any landscaping, fence or other improvement within this easement.

ARTICLE XII
ANNEXATION AND WITHDRAWAL OF PROPERTY

12.2 Annexation With Approval of Membership. Subject to the consent of the owner thereof, the Association may annex real property other than that described on Exhibit "B" and following the expiration of the right in Section 12.1, any property described on Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Members representing a majority of the Member votes of the Association represented at a meeting duly called for such purpose.

Annexation shall be accomplished by filing a supplemental declaration describing the property being annexed in the County Clerk official records of Denton County, Texas. Any such supplemental declaration shall be signed by the President and the Secretary of the Association and by the owner of the property being annexed. Any such annexation shall be effective upon filing unless otherwise provided therein.

**ARTICLE XIII
DISPUTE RESOLUTION**

13.1 Consensus for Association Action.

(a) Except as provided in this Article, the Association may not commence a legal proceeding or an action under this Article without the approval of at least two-thirds (2/3rds) of the Members. This article shall not apply, however, to (i) actions brought by the Association to enforce any of the Governing Documents (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Association in proceedings instituted against it.

13.2 Alternative Method for Resolving Disputes.

The Association, its officers, directors and committee members; all Persons subject to this Declaration; any Builder, its officers, directors, employees and agents; any person not otherwise subject to this Declaration who agrees to submit to this Article (each such entity being referred to as a "Bound Party" agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 13.3 (collectively, "Claims") to the procedures set forth in Section 13.4.

13.3 Claims.

Unless specifically exempted below, all Claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including, but not limited to Claims (a) arising out of or relating to the interpretation, application or enforcement of the Governing Documents or the rights, obligation and duties of any Bound Party under the Governing Documents; (b) relating to the design or construction of improvements; or (c) based upon any statements, representations, promises warranties, or other communications made by or on behalf of any Bound Party shall be subject to the provisions of Section 13.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 13.4:

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article VI;
- (b) any suit by the Association to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to act under and enforce the provisions of Article VII or Article VIII;

(c) any suit between or among Owners, a Builder of the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

(d) any suit in which any indispensable party is not a Bound Part.

13.4 Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (the Claimant and Respondent referred to herein being individually, as a "Party", or, collectively, as the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises;

(iii) the proposed remedy; and

(iv) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

(ii) If the Parties do not resolve the Claim within 30 days after the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have to days to submit the Claim to mediation under the auspices of the American Arbitration Association ("AAA") in accordance with the AAA's Commercial or Construction Industry Mediation Rules, as appropriate.

(iii) If Claimant does not submit the Claim to mediation within such time, or does not appear for mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such other time as determined by the mediator or agreed to by the Parties, the mediator shall issue a notice of termination of the mediation

proceedings (“Termination of Mediation”). The Termination of Mediation Notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

Each Party shall bear its own costs of the mediation, including attorneys’ fees, and each Party shall share equally all charges rendered by the mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 13.4 and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 13.4. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys’ fees and court costs.

(c) Binding Arbitration.

(i) Upon Termination of Mediation, Claimant shall thereafter be entitled to initial final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA’s Commercial or Construction Industry Arbitration Rules, as appropriate. Such Claims shall not be decided by or in a court of law. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. If the claimed amount exceeds \$250,000, the dispute shall be heard and determined by three arbitrators. Otherwise, unless mutually agreed to by the Parties, there shall be one arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

(ii) Each Party shall bear its own costs and expenses and an equal share of the arbitrator’s and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the non-contesting Party shall be awarded reasonable attorneys’ fees and expenses incurred in defending such contest. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator(s).

(iii) The award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusion of law. Except as may be required by law or for confirmation of an award, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

**ARTICLE XIV
GENERAL PROVISIONS**

14.1 Duration. This Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, perpetually to the extent provided by law; provided however, so long as, and to the extent that Texas law limits the period during which covenants restricting land to certain uses may run, any provision of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time, any such provision shall be (a) automatically extended (to the extent allowed by applicable law) for successive periods of ten (10) years, unless a written instrument reflecting disapproval of the extensions signed by the then Owners of at least two-thirds (2/3) of the Lots has been recorded within the year immediately preceding the beginning of a ten (10) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended as otherwise provided by law. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

14.2 Amendment.

(a) By Owners. Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of the Members representing at least a majority of the votes. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provision of this Declaration.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

14.3 Partition. The Common Property shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not necessarily limited to, the Lots.

14.4 Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

14.5 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

14.6 Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting extending or otherwise modifying or adding to the particular Article or Section to which they refer.

14.7 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the new living descendants of Elizabeth II, Queen of England.

14.8 Notice of Sale, Lease or Acquisition. In the event an Owner sells or leases such Owner's Lot, the Owner shall give to the Association, in writing, within thirty (30) days of the effective date of such sale or lease, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require. Upon acquisition of a Lot each new Owner shall give the Association, in writing, the name and mailing address of the Owner and such other information as the Board may reasonably require.

14.9 Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board, shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

14.10 Use of the Words "Badminton Heights". No person shall use the words "Badminton Heights" or any in any printed or promotional material without the Board's prior written consent. However, Owners may use the words "Badminton Heights" in printed or promotional matter solely to specify that particular property is located within the Community, and the Association shall be entitled to use the words "Badminton Heights" in its name.

IN WITNESS WHEREOF, the Association hereby executes this instrument under seal this ____ day of _____, 2017.

BADMINTON HEIGHTS, L.P.

By: _____

Its: _____

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF DENTON §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on the ____ day of February, 2005, personally appeared _____, _____ of Badminton Heights, L.P., and acknowledged that he executed the foregoing document on behalf of said corporation.

Notary Public in and for
the State of Texas

My Commission Expires: _____

EXHIBIT "A"

Property Initially Subject to Declaration

Lots 1-3X Block A, Lots 1-4 Block B; Lots 1-7 Block C, and Lots 1X-5 Block D in these Robert Keith Survey, Abstract No. 1643 Newton Alsup Survey, Abstract No. 3, Town of Bartonville, Denton County, Texas, recorded on December 30, 2004, under Document No. 166465, in Cabinet W, Pages 39, 40 and 41 of the Deed Records of Denton County, Texas.

EXHIBIT "B"

Property Subject to Annexation

Any property lying and being located within one-half (1/2) mile from any portion of any perimeter boundary line of the real property described on Exhibit "A" to the Declaration of Covenants, Conditions and Restrictions for Badminton Heights.

EXHIBIT "C"

TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

BADMINTON HEIGHTS

BYLAWS

OF

BADMINTON HEIGHTS

HOMEOWNERS ASSOCIATION, INC.

BYLAWS
OF
BADMINTON HEIGHTS
HOMEOWNERS ASSOCIATION, INC.

Article I

Name, Principal Office and Definitions

Section 1.1. Name. The name of the Association shall be Badminton Heights Homeowners Associations, Inc. (the "Association").

Section 1.2. Principal Office. The principal office of the Association in the State of Texas shall be located in Denton County. The Association in the State of Texas shall be located in Denton County. The Association may have such other offices, either within or outside the State of Texas, as the Board may determine or as the affairs of the Association may require.

Section 1.3. Definitions. The words in these Bylaws shall be given their ordinary, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants, Conditions and Restrictions for Badminton Heights (said Declaration, as amended, renewed or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), unless the context shall otherwise require.

Article II
Association Membership, Meetings, Quorum, Voting Proxies

Section 2.1. **Membership.** The provisions of the Declaration pertaining to membership are specifically incorporated herein by reference.

Section 2.2 **Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate.

Section 2.3. **Annual Meetings.** The first meeting of the Association, whether a regular or special meetings, shall be held within one (1) year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Board so as to occur during the first quarter of the Association's fiscal year on a date and at a time set by the Board.

Section 2.4. **Special Meetings.** The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of a majority of the Board or upon a petition signed by Members representing at least ten percent (10%) of the total Member votes of the Association.

Section 2.5. **Notice of Meetings.** Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President or Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 2.6. **Waiver of Notice.** Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

Section 2.7. **Adjournment of Meetings.** If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in

person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Member in the manner prescribed for special meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by Members representing at least a majority of the votes required to constitute a quorum.

Section 2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration and these Bylaws, and the Declaration's voting rights provisions are specifically incorporated herein.

Section 2.9. Proxies. Members may vote in person, by written consent or by proxy, except as specifically provided otherwise in the Governing Documents. All proxies shall be in writing, dated and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of such Member's Lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member, or of written revocation, or up on the expiration of eleven (11) months from the date of the proxy.

Section 2.10. Majority. As used in these Bylaws, the term "majority" shall mean those votes, owners or other group, as the context may indicate, totaling more than fifty percent (50%) of the total number.

Section 2.11. Quorum. Except as otherwise provided in these Bylaws or in the Declaration, the presence in person or by proxy of Members representing at least twenty-five percent (25%) of the total votes in the Association and shall constitute a quorum at all meetings of the Association.

Section 2.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

Section 2.13. Action Without a Meeting. Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if written consent setting forth the action so taken is signed by a sufficient number of Members as would be necessary to take that action at a meeting at which all of the Members were present and voted, and any such consent shall have the same force and effect as a unanimous vote of the Members. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Association. Such consents shall be filed with the minutes of the Association and shall have the same force as a vote of Members at a meeting. Each written consent shall bear the date of the signature of each Member who signs the consent. Within ten (10) days

following authorization of any action by written consent, the Association shall give notice to all Members of the material features of the authorized action.

Article III
Board of Directors: Number, Powers, Meetings

A. Composition and Selection.

Section 3.1. Governing Body: Composition. The affairs of the Association shall be governed by a Board, each of whom shall have the vote. The directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time. In the case of a Member which is not a natural person, the person designated in writing to the Secretary of the Association as the representative of such Member shall be eligible to serve as a director, provided, no Member may have more than one representative on the Board at the same time.

Section 3.2. Number of Directors. The Board shall consist of three (3) directors, as provided in Section 3.5. The initial Board shall consist of the three (3) directors identified in the Articles of Incorporation.

Section 3.4. Nomination and Election Procedures.

(a) Nominations. Nominations for election to the Board may be made from the floor or by a Nomination Committee. The Nominating Committee, if any, shall consist of a chairman, who shall be a director, and two (2) or more Members. The Nominating Committee, if any, shall be appointed by the Board not less than thirty (30) days prior to each annual meeting of the Members to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of positions to be filled. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. The Board may adopt rules governing the procedures for the nomination of directors.

(b) Election Procedures. Each Member may cast all votes attributed to the Lots which such Member represents for each vacancy to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled and who receive the greatest number of votes shall be elected. The directors elected by the Members shall hold office until their respective successors have been elected and qualified. Directors may be elected to serve any number of consecutive terms.

Section 3.5. Election and Term of Office. The President shall call for an election at which Members shall be entitled to elect three (3) directors. Directors elected by the Members shall hold office until their respective successors have been elected and qualified. At the expiration of the initial

term of office of each such member of the Board of Directors and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years.

Section 3.6. Removal of Directors: Vacancies. Any director elected by the Members may be removed, with or without cause, by the vote of the Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall then and there be elected by the Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other charge due the Association for more than thirty (30) days, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term.

In the event of the death, disability or resignation of a director elected by the Member, a vacancy may be declared by the Board, and it may appoint a successor to serve for the remainder of the term of such director. Alternatively, the Board may call for an election for the purpose of electing a successor to fill any such vacancy on the Board. In such case, the Members shall be entitled to elect a successor to serve for the remainder of the term of such director.

B. Meetings.

Section 3.7. Organizational Meetings. The first meeting of the Board following such annual meeting of the Membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 3.8. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to directors no less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 3.9. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (i) by personal delivery; (ii) written notice by first-class mail, postage prepaid; (iii) by telephone communication, either director to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) by electronic mail, facsimile, computer, fiber optics or other communication device. All such notices shall be given at the director's telephone number, facsimile

number, electronic mail address, or sent to the director's address as shown on the records of the Association. Notices sent by first-class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone or other device shall be delivered or transmitted at least seventy-two (72) hours before the time set for the meeting.

Section 3.10. Waiver of Notice. The transaction of any meeting of the Board, however, called and noticed or whenever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 3.11. Telephonic Meetings. Members of the Board or any committee may participate in a meeting of the Board or Committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can simultaneously communicate with one another. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

Section 3.12. Quorum of Board. At all meetings of the Board, a majority of the directors, shall constitute a quorum for the transaction of business, and the directors present at a meeting at which a quorum is present shall constitute the decision of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any who are present at such meeting adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have transacted at the meeting originally called may be transacted without further notice.

Section 3.13. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Member vote of the Association at a regular or special meeting of the Association; provided any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

Section 3.14. Conduct of Meetings. The President shall preside over all meetings of the Board and the Secretary shall keep a minute book of meetings of the Board, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 3.15. Open Meetings. Subject to the provisions of Section 3.16, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any

discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, excluding Members to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc., or matters that are to remain confidential by request of the affected parties and agreement of the Board. The general nature of any business to be considered in executive session must first be announced at the opening meeting.

Section 3.16. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by a sufficient number of directors as would be necessary to take that action at a meeting at which all of the directors were present and voted, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties

Section 3.17. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do or cause to be done all acts and things as are not by the Governing Documents or by law directed to be done and exercised exclusively by the Members or the membership generally.

Section 3.18. Duties. The duties of the Board shall include, without limitation, the following:

- (a) Preparation and adoption, in accordance with Article VI of the Declaration, of annual budgets in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) Making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board, the annual assessment for each Lot's proportionate share of the Common Expenses shall be payable on January 1 of each year;
- (c) Providing for the operation, care, upkeep and maintenance of all the Common Area;
- (d) Designating, hiring and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair and replacement of its property and the Common Area and where appropriate, providing for the compensation of such personnel in the performance of their duties;
- (e) Collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve and using the proceeds to operate the Association; provided any reserve fund may be deposited in the directors' best business judgment, in depositories other than banks;
- (f) Making and amending rules and regulations;
- (g) Opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) Making or contracting for the making of repairs, additions and improvements to or alterations of the Area of the Common Responsibility in accordance with the other provisions of the Declaration and these Bylaws after damage or destruction by fire or other casualty;

- (i) Enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the owners concerning the Association;
- (j) Obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (k) Paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;
- (l) Keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;
- (m) Making available to any prospective purchaser of a Lot, any Owner of a Lot, any First Mortgagee, and the holders, insurers and guarantors of a First Mortgage on a Lot, current copies of the Governing Documents and all other books, records and financial statements of the Association; and
- (n) Permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Property.

Section 3.20. Management. The board may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to its managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board by these Bylaws. Section

Section 3.21. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise; anything of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;
- (f) an annual report consisting of at least the following shall be made available to all Members within one hundred twenty (120) days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income statement); and (iii) a statement of changes in financial position for the fiscal year. The annual report referred to above shall be prepared on an audited, reviewed or compiled basis, as determined by the Board, by an independent public accountant; provided, upon written request of any holder, guarantor or insurer of any First Mortgage on a Lot, the Association shall provide an audited financial statement.

Section 3.22. Borrowing. The Association shall have the power to borrow money for any legal purposes; provided the Board shall obtain Member approval in the same manner provided in

Section 9.4 of the Declaration for special assessments in the event that the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year.

Section 3.23. Rights of the Association. With respect to the Common Area, and in accordance with the Articles of Incorporation and the Declaration, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational or other agreements with trusts, condominiums, cooperatives and other owners or residents associations, both within and without the Property. Such agreements shall require the consent of a majority of the total number of directors of the Association.

Section 3.24. Enforcement. The Association shall have the power to impose sanctions for violations of the Governing Documents. The failure of the Board to enforce any provision of the Governing Documents shall not be deemed a waiver of the right of the Board to so thereafter or of the right to enforce any other violation.

(a) Notice. Prior to imposition of any sanction under the Governing Documents the Board or its delegate shall serve the alleged violator with written notice by certified mail, return receipt requested, describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, including the amount of any fine or charge (iii) a period of not less than thirty (30) days from the violator's receipt of such notice within which the alleged violator may present a written response to the Board for a hearing; (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless the violation is cured within a reasonable period of time or unless a request for a hearing is made within the thirty-day period; and (v) a statement that attorney's fees and costs will be charged to the violator if the violation continues after the date stated in the notice. The Board may suspend any proposed sanction if the violation is cured within the 30-day period, or if correction of the violation is commenced within the 30-day period and diligently pursued to completion. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Repeat Offender. Notwithstanding anything to the contrary herein contained, in the event the violator was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months of the current violation, no additional opportunity to cure must be given to the violator.

(c) Hearing. If a hearing is requested within the allotted thirty (30) day period, the hearing shall be held before the Board in executive session. The hearing shall be held no later than the 30th day after the date the Board of Directors receives the violator's request for a hearing. The Board or its delegate shall notify the violator of the date, time and place of the hearing no later than the 10th day before the date of the hearing. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking restrictions or rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the notice and hearing procedure set forth above unless otherwise required by law. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees and additional management fees actually incurred. Any entry onto a Lot for purposes of exercising this power of self-help shall not be deemed a trespass.

Article IV Officers

Section 4.1. Officers. The officers of the Association shall be a President, Vice President, Secretary and Treasurer, to be elected from among the members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 4.2. Election and Term of Office. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each annual meeting of the Members, as set forth in Section 3.7.

Section 4.3. Removal and Vacancies. Any officer may be removed by the Board whenever in its judgment the best interest of the Association will be served thereby. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board for the unexpired portion of the term.

Section 4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent or both.

Section 4.5. Resignation. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified herein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.6. Agreements, Contracts, Deeds, Leases, Checks, etc. All agreements contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board.

Section 4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.13.

Article V Committees

Section 5.1. General. Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Each committee shall cooperate in accordance with the terms of the resolution of the Board designating the committee or with rules adopted by the Board of Directors.

Article VI Miscellaneous

Section 6.1. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board. In the absence of a resolution, the fiscal year shall be the calendar year.

Section 3.2. Conflicts. If there are conflicts between the provisions of Texas law, the Articles of Incorporation, the Declaration and these Bylaws, the provisions of Texas law, the Declaration, the Articles of Incorporation and the Bylaws (in that order) shall prevail.

Section 3.3. Books and Records.

(a) Inspection by Members and Mortgagees. The Governing Documents, the membership register, books of account, and the minutes of meetings of the Members, the Board and Committees, shall be made available for inspection and copying by any holder, insurer or guarantor of a First Mortgage on a Lot, a Member, or by the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in the Lot. Such inspection shall take place at the office of the Association or at such other place within the Property as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical Property owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 6.4. Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first-class postage prepaid:

(a) if to a Member at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member or Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

Section 6.5. Amendment.

(a) These Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least a majority of the total votes in the Association,. The percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the County Clerk Official Records of Denton County, Texas.

If an Member consents to any amendment to these Bylaws, it will be conclusively presumed that such Member has the authority so to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

EXHIBIT "D"
TO THE
OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BADMINTON HEIGHTS
ARTICLES OF INCORPORATION
OF
BADMINTON HEIGHTS
HOMEOWNERS ASSOCIATION, INC.

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Roger Williams
Secretary of State

Office of the Secretary of State

**CERTIFICATE OF INCORPORATION
OF**

Badminton Heights Homeowners Association, Inc.
Filing Number: 800524875

The undersigned, as Secretary of State of Texas, hereby certifies that Articles of Incorporation for the above named corporation have been received in this office and have been found to conform to law.

Accordingly, the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Incorporation.

Issuance of this Certificate of Incorporation does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 07/29/2005

Effective: 07/29/2005



A handwritten signature in black ink that reads "Roger Williams".

Roger Williams
Secretary of State

Phone: (512) 463-5555
Prepared by: Jean Marchione

Come visit us on the internet at <http://www.sos.state.tx.us/>
Fax: (512) 463-5709

TTY: 7-1-1
Document: 98974990002

ARTICLES OF INCORPORATION

FILED
In the Office of the
Secretary of State of Texas

JUL 29 2005

OF

BADMINTON HEIGHTS HOMEOWNERS ASSOCIATION, INC. **Corporations Section**

I, the undersigned, being of the age of eighteen years or more, acting as incorporator of a corporation under the Texas Non-Profit Corporation Act, Tex. Civ. Stat. Ann. art. 1396-1.01, et seq., as it may be amended, do hereby adopt the following Articles of Incorporation for such corporation:

Article 1. Name. The name of the corporation is **Badminton Heights Homeowners Association, Inc.** ("Corporation" or "Association").

Article 2. Duration. The Corporation shall have perpetual duration.

Article 3. Applicable Statute. The Corporation is a non-profit corporation organized pursuant to the provisions of the Texas Non-Profit Corporation Act, Article 1396-1.01 et seq.

Article 4. Purposes and Powers. The Corporation does not contemplate pecuniary gain or benefit, direct or indirect, to its members. In way of explanation and not of limitation, the purposes for which it is formed are:

(a) to be and constitute the Association to which reference is made in the Declaration of Covenants, Conditions and Restrictions for Badminton Heights to be recorded in the Office of the County Clerk of Denton County, Texas, as it may be amended from time to time (the "Declaration"), to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified therein, in the Bylaws and as provided by law; and

(b) to provide an entity for the furtherance of the interests of the owners of property subject to the Declaration.

In furtherance of its purposes, the Corporation shall have the following powers, which, unless indicated otherwise by the Declaration or Bylaws, may be exercised by the Board of Directors:

(a) all of the powers conferred upon non-profit corporations by common law and the statutes of the State of Texas in effect from time to time;

(b) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws or the Declaration, including, without limitation, the following:

(i) to fix, levy, and collect assessments and other charges to be levied against the property subject to the Declaration and to enforce payment thereof by any lawful means;

(ii) to manage, control, operate, maintain, preserve, repair and improve the common area and facilities, and any property subsequently acquired by the Corporation, or any property owned by another, for which the Corporation, by rule, regulation, Declaration or contract, has a right or duty to provide such services;

(iii) to enforce covenants, conditions or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or Bylaws;

(iv) to engage in activities which will actively foster, promote and advance the common interests of all owners of property subject to the Declaration;

(v) to buy or otherwise acquire, sell or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Corporation, which shall include the power to foreclose its lien on any property subject to the Declaration by judicial or non-judicial means;

(vi) to borrow money for any purpose subject to such limitations as may be contained in the Bylaws;

(vii) to enter into, make, perform and enforce contracts of every kind and description and to do all other acts necessary, appropriate or advisable in carrying out any purpose of the Association, with or in concert with any other association, corporation or other entity or agency, public or private;

(viii) to act as agent, trustee or other representative of other corporations, firms or individuals and, as such, to advance the business or ownership interests in such corporations, firms or individuals;

(ix) to adopt, alter and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration; and

(x) to provide or contract for services benefiting the property subject to the Declaration, including, without limitation, garbage removal and any and all supplemental municipal services as may be necessary or desirable.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; provided, none of the objects or purposes herein set out shall be construed to authorize the Corporation to do any act in violation of the Texas Non-Profit Corporation Act, and all such objects or purposes are subject to said Act.

The powers specified in each of the paragraphs of this Article 4 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provision of this Article 4.

Article 5. Definitions. All capitalized terms used in these Articles of Incorporation shall be defined in the same manner as defined in the Declaration, which definitions are incorporated herein by this reference.

Article 6. Membership. The Corporation shall be a membership corporation without certificates or shares of stock. All Owners (as defined in the Declaration), by virtue of their ownership of Lots subject to the Declaration, are members of the Association. The members shall be divided into classes and entitled to a vote in accordance with the Declaration and Bylaws.

Article 7. Board of Directors. The business and affairs of the Corporation shall be conducted, managed and controlled by a Board of Directors (the "Board"). The Board may delegate such operating authority to such companies, individuals or committees as it, in its discretion, may determine. The Board shall consist of no less than three (3) and no more than five (5) members. The initial Board shall consist of the following three (3) members:

<u>Name</u>	<u>Address</u>
Andrew Walling	309 Lakeland Drive Highland Village, Texas 75077
Peter T. Walling	624 West Jeter Road Bartonville, Texas 76226
Richard T. Walling	2 Parkland Court Houston, Texas 77055

The method of election, removal and filling of vacancies, and the term of office and number of directors shall be as set forth in the Bylaws.

Article 8. Liability of Directors. To the fullest extent permitted by Texas statutes, as the same exist or as they may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits broader limitation than permitted prior to such amendment), a director of the Corporation shall not be liable to the Corporation for monetary damages for an act or omission in the director's capacity as a director. Any repeal or amendment of this Article 8 by the Corporation shall be prospective only and shall not adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such repeal or amendment.

Article 9. Dissolution. The Corporation may be dissolved only as provided in the Bylaws, and by the laws of the State of Texas.

Article 10. Amendments. Subject to the provisions of the Texas Non-Profit Corporation Act, these Articles of Incorporation may be amended with the approval of the Board and seventy-five percent (75%) of the total votes in the Association, and with the approval of the Class "B" member, so long as such membership exists. No amendment shall conflict with the Declaration nor shall any amendment be effective to impair or dilute any rights of members that are granted by the Declaration.

Article 11. Action Without a Meeting. Any action required by the Texas Non-Profit Corporation Act to be taken at a meeting of the members or directors of the Corporation or any action that may be taken at a meeting of the members or directors or of any committee may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of members, directors or committee members as would be necessary to take that action at a meeting at which all of the members, directors or members of the committee were present and voted.

Article 12. Registered Agent and Office. The initial registered office of the Corporation is 3811 Turtle Creek Boulevard, Suite 1050, Dallas, Texas 75219, and the initial registered agent at such address is Lance E. Williams.

Article 13. Incorporators. The name and address of the incorporator is as follows:

Lance E. Williams
Riddle & Williams, P.C.
3811 Turtle Creek Boulevard, Suite 1050
Dallas, Texas 75219

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation this 20 day of July, 2005.



Lance E. Williams

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ARTICLES OF INCORPORATION - Page 4



7/27/05

Secretary of State for the State of Texas
Statutory Filings Division
Corporations Section
P.O. Box 13697
Austin, Texas 78711-3697

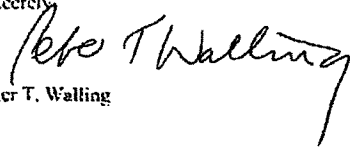
Re: Consent Letter
Filing as: Badminton Heights Homeowners Association, Inc.

Dear Sir:

Please allow this letter to serve as the undersigned's consent to the use of the name "Badminton Heights Homeowners Association, Inc.", by Lance E. Williams, as its incorporator.

Please call if you have any questions.

Sincerely,


Peter T. Walling